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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,919	02/14/2001	Yoichi Sugiyama	1422-0467P	9671

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EXAMINER

DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/13/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/762,919	SUGIYAMA ET AL.
Examiner	Art Unit	
Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 23 December 2002 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-13 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10. 6)  Other: \_\_\_\_ .

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1. This action is responsive to the amendment filed on December 23, 2002.
2. Claims 1-13 are pending.
3. The objection to claims 2 and 7 is withdrawn in view of applicants' amendment.
4. The rejection of claims 1-8 under 35 U.S.C. 102(b) as being anticipated by Mausner et al. (US Patent No. 4,054,541) is withdrawn in view of applicants' amendment.
5. The rejection of claims 1-3, 5-8 under 35 U.S.C. 102(b) as being anticipated by Wilms et al. (US Patent No. 5,139,693), hereinafter "Wilms" is withdrawn in view of applicants' amendment.
6. The rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Wilms as applied to claim 1 above, and further in view of Kickle et al. (US Patent No. 4,675,127) is withdrawn in view of applicants' arguments.
7. Claims 9-11 stand rejected under 35 U.S.C. 102(b) as being anticipated by Wilms for the reasons set forth in the office action in paper number 5.

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8. The rejection of claims 1-3, 5-11 under 35 U.S.C. 102(e) as being anticipated by Kubota et al. (US Patent No. 6,376,453), hereinafter “Kubota” is withdrawn in view of applicants’ submission of a certified English translation of the foreign priority document.

9. The rejection of claim 4 under 35 U.S.C. 103(a) as being unpatentable over Kubota as applied to the above claims is withdrawn in view of applicants’ submission of a certified English translation of the foreign priority document.

10. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 7, 8 and 9 are indefinite because reference to “the surfactant” is not clear. The claims require base particles for supporting a surfactant, (which is 1 to 100 parts by weight in 100 parts by weight of base particles) yet “the surfactant” is contained in an amount of from 0 to 3% by weight of the base particles. As understood from page 5, lines 3-8 of the specification the base particles (for supporting a surfactant later on) further comprises a surfactant (which is added to the slurry for spray drying) in an amount from 0 to 3% by weight of the base particles. Hence, “the surfactant” in the claims refer to the surfactant in the base particles not the surfactant supported by the base particles.

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11. Claims 1-3 and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilms.

Wilms teaches a granular mixture produced by spray drying of (a) 45 to 75% by weight zeolite, (b) 1 to 6% by weight of a water soluble soap of substantially saturated C<sub>12-18</sub> fatty acids, (c) 1 to 12% by weight homopolymers or copolymers of acrylic acid, methacrylic acid or maleic acid or water-soluble salts thereof, (d) 0 to 15% by weight sodium sulfate, (e) 0 to 5% by weight surfactants of the nonionic polyglycol ether derivative type, (f) 10 to 22% by weight water (see abstract). The spray dried particles have a density of 350 to 680 g/l and an average particle size from 0.2 to 1.2 mm (see col. 4, lines 31-48), and are impregnated with about 10 to about 35% by weight, based on the final treated product, of at least one nonionic surfactant (see claim 9).

Wilms, however, fails to specifically disclose an amount from 0 to 3% by weight of surfactant in the spray dried granules.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the soap or surfactant of Wilms through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

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12. Claims 1-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Partee et al. (US Patent No. 5,726,142), hereinafter "Partee".

Partee teaches a laundry detergent which comprises an agglomerated admixture of a base granular formulation and a detergent agglomerate (see abstract; col. 1, lines 34-38), wherein the base granular formulation is spray dried in a conventional fashion (see col. 1, lines 50-53), which comprises alkali metal carbonate, an anionic surfactant in an amount up to about 40 wt%, an inert diluent such as an alkali metal chloride and a copolymer like sodium polyacrylate in an amount up to about 5 wt% (see col. 2, lines 21-43; Table under col. 3). The detergents comprise low to moderate density, preferably less than about 900 g/l, more preferably in the range of about 400 g/l (see col. 3, lines 5-10). Partee, however, fails to specifically disclose the amount of surfactant in the spray dried granules in an amount of from 0 to 3% by weight.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the proportions of the surfactant of Partee through routine experimentation for best results. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 617 F.2d 272, 276, 205 USPQ 215, 219 (CCPA 1980). See also *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936-37 (Fed. Cir. 1990), and *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

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13. Claims 9-11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Partee as applied to the above claims, and further in view of Wilms.

Partee teaches the features as described above. Partee, however, fails to disclose detergent particles wherein 1 to 100 parts by weight of a surfactant is supported in 100 parts by weight of the base granular composition.

Wilms teaches a similar spray dried composition wherein the spray dried granules are impregnated with nonionic surfactants (see col. 5, lines 51-57) in an amount from about 10 to about 35% by weight, based on the final treated product (see claim 9), to improve the solubility properties of the spray dried granules (see col. 6, lines 67-68).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to impregnate the spray dried granular composition of Partee with a nonionic surfactant because such impregnation would improve the solubility properties of the spray dried granules as taught by Wilms.

#### *Response to Applicants' Arguments*

14. Applicants' arguments filed on December 23, 2002 have been fully considered but they are not persuasive.

With respect to Wilms, Applicants argue that none of the ingredients in Wilms correspond to ingredient (b) recited in the present claims.

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The Examiner respectfully disagrees with the above argument because the present claims which are rejected over Wilms, alone, only require an inhibitor for forming a coating film, and the sodium sulfate component taught by Wilms correspond to ingredient (b) of said claims.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (703) 305-3773. The examiner can normally be reached on Mondays-Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Technology Center is:

(703) 872-9311 - for Official After Final faxes  
(703) 872-9310- for all other Official faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center receptionist whose telephone number is (703) 308-0661.

*Lorna M. Douyon*

Lorna M. Douyon  
Primary Examiner  
Art Unit 1751

March 7, 2003